

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

IN RE LINDT & SPRÜNGLI (USA), INC.,
DARK CHOCOLATE LITIGATION

Case No. 1:23-cv-01186-AMD-JAM

**ANSWER TO PLAINTIFFS'
CONSOLIDATED CLASS ACTION
COMPLAINT AND AFFIRMATIVE
DEFENSES**

Defendant Lindt & Sprüngli (USA), Inc. (“Defendant”) hereby submits its Answer to Plaintiffs’ Consolidated Class Action Complaint and Affirmative Defenses as follows.

INTRODUCTION

1. Defendant admits that Plaintiffs purport to bring this action as a class action. The remaining allegations in Paragraph 1 state legal conclusions for which no response is required. To the extent a response is required, Defendant denies those allegations, denies any wrongdoing, and denies that this matter is appropriate as a class action.

2. Defendant denies the allegations in the first two sentences of Paragraph 2.

Defendant lacks information or knowledge sufficient to form a belief as to the truth of the remaining allegations in Paragraph 2, and on that basis neither admits nor denies them. Defendant further states that the complete version of the underlying source referenced in this Paragraph speaks for itself.

3. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 3, and on that basis neither admits nor denies them. Defendant further states that the complete version of the underlying source referenced in this Paragraph speaks for itself.

4. Defendant admits that Plaintiffs purport to seek injunctive and monetary relief on behalf of a putative class. Defendant denies that Plaintiffs or any member(s) of a putative class are entitled to any relief. Defendant lacks information or knowledge sufficient to form a belief as to the truth of the remaining allegations in Paragraph 4, and on that basis neither admits nor denies them.

5. Defendant lacks information or knowledge sufficient to form a belief as to the truth of the allegations in Paragraph 5, and on that basis neither admits nor denies them.

NATURE OF THE ACTION

6. Defendant lacks information or knowledge sufficient to form a belief as to the truth of the allegations in Paragraph 6, and on that basis neither admits nor denies them. Defendant further states that the complete version of the source referenced in this Paragraph speaks for itself.

7. Defendant lacks information or knowledge sufficient to form a belief as to the truth of the allegations in Paragraph 7, and on that basis neither admits nor denies them.

8. Defendant lacks information or knowledge sufficient to form a belief as to the truth of the allegations in Paragraph 8, and on that basis neither admits nor denies them.

9. Defendant lacks information or knowledge sufficient to form a belief as to the truth of the allegations in Paragraph 9, and on that basis neither admits nor denies them.

10. Defendant admits that it manufactures the Products through the United States, including in this District. Except as expressly admitted, Defendant denies the allegations in Paragraph 10.

11. Defendant admits that the images in Paragraph 11 purport to depict optimized versions of the packaging of two of Defendant's products. The remainder of the allegations in Paragraph 11 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 11.

12. Defendant admits that Plaintiffs purport to quote language from Defendant's labeling and webpages without attribution or citation. Defendant lacks sufficient information to form a belief as to the truth of the allegations in Paragraph 12, and on that basis neither admits nor denies them. The remainder of the allegations in Paragraph 12 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 12.

13. The allegations in Paragraph 13 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 13.

14. Defendant admits Plaintiffs purport to quote language from Defendant's website. Defendant states that the complete version of the underlying source referenced in this Paragraph speaks for itself. Defendant lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in Paragraph 14, and on that basis neither admits nor denies them.

15. Defendant admits that Plaintiffs purport to quote Defendant. Defendant states that the complete version of the underlying source referenced in this Paragraph speaks for itself. Defendant lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in Paragraph 15, and on that basis neither admits nor denies them.

16. Defendant admits Plaintiffs purport to quote Defendant. Defendant states that the complete version of the underlying source referenced in this Paragraph speaks for itself. Defendant lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in Paragraph 16, and on that basis neither admits nor denies them.

17. Defendant admits that Plaintiffs purport to quote Defendant. Defendant states that the complete version of the underlying source referenced in this Paragraph speaks for itself.

Defendant lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in Paragraph 17, and on that basis neither admits nor denies them.

18. Defendant admits that in Paragraph 18, Plaintiffs purport to quote Defendant.

Defendant states that the complete version of the underlying source referenced in this Paragraph speaks for itself. Defendant lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in Paragraph 18, and on that basis neither admits nor denies them.

19. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 19, and on that basis neither admits nor denies them.

20. The allegations in Paragraph 20 are legal conclusions to which no response is required. To the extent a response is required, Defendant lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations in Paragraph 20, and on that basis neither admits nor denies them. Defendant states that the complete version of the underlying source referenced in this Paragraph speaks for itself.

21. Defendant denies the allegations in Paragraph 21.

22. The allegations in the first two sentences of Paragraph 22 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies them. Defendant denies the remaining allegations in Paragraph 22.

23. The allegations in Paragraph 23 are legal conclusions to which no response is required. To the extent a response is required, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 23, and on that basis denies them.

24. The allegations in Paragraph 24 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 24.

25. The allegations in Paragraph 25 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 25.

26. The allegations in Paragraph 26 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 26.

27. The allegations in Paragraph 27 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 27.

28. Defendant admits that Plaintiffs purport to bring this action as a putative class action but denies that this action should proceed as a class action.

JURISDICTION AND VENUE

29. The allegations in Paragraph 29 are legal conclusions to which no response is required. To the extent a response is required, Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 29, and on that basis neither admits nor denies them.

30. The allegations in the first sentence of Paragraph 30 are legal conclusions to which no response is required. To the extent a response is required, Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 30, and on that basis neither admits nor denies them. Defendant admits that it has agreed to jurisdiction before the Court for the purposes of this action only.

31. The allegations in Paragraph 31 are legal conclusions to which no response is required. To the extent a response is required, Defendant does not challenge venue for the purposes of this action only.

PARTIES

I. Plaintiffs

32. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 32, and on that basis neither admits nor denies them.

33. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 33, and on that basis neither admits nor denies them.

34. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 34, and on that basis neither admits nor denies them.

35. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 35, and on that basis neither admits nor denies them.

36. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 36, and on that basis neither admits nor denies them.

37. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 37, and on that basis neither admits nor denies them.

38. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 38, and on that basis neither admits nor denies them.

39. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 39, and on that basis neither admits nor denies them.

40. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 40, and on that basis neither admits nor denies them.

41. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 41, and on that basis neither admits nor denies them.

42. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 42, and on that basis neither admits nor denies them.

43. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 43, and on that basis neither admits nor denies them.

44. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 44, and on that basis neither admits nor denies them.

45. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 45, and on that basis neither admits nor denies them.

46. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 46, and on that basis neither admits nor denies them.

47. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 47, and on that basis neither admits nor denies them.

48. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 48, and on that basis neither admits nor denies them.

49. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 49, and on that basis neither admits nor denies them.

50. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 50, and on that basis neither admits nor denies them.

51. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 51, and on that basis neither admits nor denies them.

52. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 52, and on that basis neither admits nor denies them.

53. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 53, and on that basis neither admits nor denies them.

54. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 54, and on that basis neither admits nor denies them.

55. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 55, and on that basis neither admits nor denies them.

56. Defendant admits that it is a New York corporation with headquarters in Stratham, New Hampshire and admits that it manufactures, markets, and sells dark chocolate, including the Products, throughout the United States. Defendant denies the remaining allegations in Paragraph 56.

57. Defendant admits that Plaintiffs, through this action, challenge Lindt Excellence Dark Chocolate 70% Cocoa and Lindt Excellence Dark chocolate 85% Cocoa bars. Lindt denies the remaining allegations in Paragraph 57.

58. The allegations in Paragraph 58 are legal conclusions to which no response is required. To the extent a response is required, Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 58, and on that basis neither admits nor denies them.

FACTUAL ALLEGATIONS

59. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 59, and on that basis neither admits nor denies them. Defendant states that the complete version of the underlying source referenced in this Paragraph speaks for itself.

60. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 60, and on that basis neither admits nor denies them. Defendant states that the complete version of the underlying source referenced in this Paragraph speaks for itself.

61. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 61, and on that basis neither admits nor denies them. Defendant

states that the complete version of the underlying source referenced in this Paragraph speaks for itself.

62. Paragraph 62 contains no allegations directed to Defendant, and therefore no response is required. To the extent that a response is required, Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 62, and on that basis neither admits nor denies them. Defendant states that the complete version of the underlying source referenced in this Paragraph speaks for itself.

63. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 63, and on that basis neither admits nor denies them. Defendant states that the complete version of the underlying source referenced in this Paragraph speaks for itself.

64. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 64, and on that basis neither admits nor denies them. Defendant states that the complete version of the underlying source referenced in this Paragraph speaks for itself.

65. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 65, and on that basis neither admits nor denies them. Defendant states that the complete version of the underlying source referenced in this Paragraph speaks for itself.

66. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 66, and on that basis neither admits nor denies them. Defendant states that the complete version of the underlying source referenced in this Paragraph speaks for itself.

67. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 67, and on that basis neither admits nor denies them. Defendant states that the complete version of the underlying source referenced in this Paragraph speaks for itself.

68. Defendant admits that it is involved in the manufacture, labeling, marketing, and advertising for the Products through the United States. Except as expressly admitted, Defendant denies the allegations in Paragraph 68.

69. Defendant admits the allegations in Paragraph 69.

70. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 70, and on that basis neither admits nor denies them. Defendant states that the complete version of the underlying source referenced in this Paragraph speaks for itself.

71. The allegations in Paragraph 71 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 71.

72. The allegations in Paragraph 72 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 72.

73. The allegations in Paragraph 73 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 73.

74. The allegations in Paragraph 74 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 74.

75. The allegations in Paragraph 75 are not directed at Defendant, and therefore no response is required. Defendant states that the complete version of the underlying source referenced in this Paragraph speaks for itself.

76. The allegations in Paragraph 76 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 76.

77. The allegations in Paragraph 77 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 77.

78. The allegations in Paragraph 78 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 78.

79. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 79, and on that basis neither admits nor denies them.

80. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 80, and on that basis neither admits nor denies them. Defendant states that the complete version of the underlying source referenced in this Paragraph speaks for itself.

81. The allegations in Paragraph 81 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 81.

82. The allegations in Paragraph 82 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 82.

83. The allegations in Paragraph 83 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 83.

84. The allegations in Paragraph 84 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 84.

85. The allegations in Paragraph 85 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 85.

86. The allegations in Paragraph 86 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 86.

87. The allegations in Paragraph 87 are not directed at Defendant, and therefore no response is required. To the extent that a response is required, Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 87, and on that basis neither admits nor denies them. Defendant states that the complete version of the underlying source referenced in this Paragraph speaks for itself.

88. The allegations in Paragraph 88 are not directed at Defendant, and therefore no response is required. To the extent that a response is required, Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 88, and on that basis neither admits nor denies them. Defendant states that the complete version of the underlying source referenced in this Paragraph speaks for itself.

89. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 89, and on that basis neither admits nor denies them. Defendant states that the complete version of the underlying source referenced in this Paragraph speaks for itself.

90. The allegations in Paragraph 90 are not directed at Defendant, and therefore no response is required. To the extent that a response is required, Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 90, and on that basis neither admits nor denies them. Defendant states that the complete version of the underlying source referenced in this Paragraph speaks for itself.

91. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in the first clause of the sentence in Paragraph 91, and on that basis neither admits nor denies them. Defendant respectfully refers the Court to the text of the underlying source referenced in this Paragraph, the complete version of which speaks for itself. The second clause of the sentence in Paragraph 91 is a legal conclusion to which no response is required. To

the extent a response is required, Defendant denies the allegations in the second clause of the sentence in Paragraph 91.

92. The allegations in Paragraph 92 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 92.

93. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 93, and on that basis neither admits nor denies them. Defendant states that the complete version of the underlying source referenced in this Paragraph speaks for itself.

94. The allegations in Paragraph 94 are not directed at Defendant, and therefore no response is required. To the extent that a response is required, Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 94, and on that basis neither admits nor denies them. Defendant states that the complete version of the underlying source referenced in this Paragraph speaks for itself.

95. The allegations in Paragraph 95 are not directed at Defendant, and therefore no response is required. To the extent that a response is required, Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 95, and on that basis neither admits nor denies them. Defendant states that the complete version of the underlying source referenced in this Paragraph speaks for itself.

96. The allegations in Paragraph 96 are not directed at Defendant, and therefore no response is required. To the extent that a response is required, Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 96, and on that basis neither admits nor denies them. Defendant states that the complete version of the underlying source referenced in this Paragraph speaks for itself.

97. The allegations in Paragraph 97 are not directed at Defendant, and therefore no response is required. To the extent that a response is required, Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 97, and on that basis neither admits nor denies them. Defendant states that the complete version of the underlying source referenced in this Paragraph speaks for itself.

98. The allegations in Paragraph 98 are not directed at Defendant, and therefore no response is required. To the extent that a response is required, Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 98, and on that basis neither admits nor denies them. Defendant states that the complete version of the underlying source referenced in this Paragraph speaks for itself.

99. The allegations in Paragraph 99 are not directed at Defendant, and therefore no response is required. To the extent that a response is required, Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 99, and on that basis neither admits nor denies them. Defendant states that the complete version of the underlying source referenced in this Paragraph speaks for itself.

100. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 100, and on that basis neither admits nor denies them. Defendant states that the complete version of the underlying source referenced in this Paragraph speaks for itself.

101. The allegations in Paragraph 101 are not directed at Defendant, and therefore no response is required. To the extent that a response is required, Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 101, and on that basis neither admits nor denies them. Defendant states that the complete version of the underlying source referenced in this Paragraph speaks for itself.

102. The allegations in Paragraph 102 are not directed at Defendant, and therefore no response is required. To the extent that a response is required, Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 102, and on that basis neither admits nor denies them.

103. The allegations in Paragraph 103 are not directed at Defendant, and therefore no response is required. To the extent that a response is required, Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 103, and on that basis neither admits nor denies them.

104. The allegations in Paragraph 104 are not directed at Defendant, and therefore no response is required. To the extent that a response is required, Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 104, and on that basis neither admits nor denies them.

105. The allegations in Paragraph 105 are not directed at Defendant, and therefore no response is required. To the extent that a response is required, Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 105, and on that basis neither admits nor denies them. Defendant states that the complete version of the underlying source referenced in this Paragraph speaks for itself.

106. The allegations in Paragraph 106 are not directed at Defendant, and therefore no response is required. To the extent that a response is required, Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 106, and on that basis neither admits nor denies them. Defendant states that the complete version of the underlying source referenced in this Paragraph speaks for itself.

107. The allegations in Paragraph 107 are not directed at Defendant, and therefore no response is required. To the extent that a response is required, Defendant lacks knowledge or

information sufficient to form a belief as to the truth of the allegations in Paragraph 107, and on that basis neither admits nor denies them. Defendant states that the complete version of the underlying source referenced in this Paragraph speaks for itself.

108. The allegations in Paragraph 108 are not directed at Defendant, and therefore no response is required. To the extent that a response is required, Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 108, and on that basis neither admits nor denies them. Defendant states that the complete version of the underlying source referenced in this Paragraph speaks for itself.

109. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of Paragraph 109, and on that basis neither admits nor denies them. The remaining allegations in Paragraph 109 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 109.

110. The allegations in Paragraph 110 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 110.

111. The allegations in Paragraph 111 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 111.

112. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 112, and on that basis neither admits nor denies them. Defendant respectfully refers the Court to the text of the underlying source referenced in this Paragraph, the complete version of which speaks for itself.

113. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 113, and on that basis neither admits nor denies them. Defendant

respectfully refers the Court to the text of the underlying source referenced in this Paragraph, the complete version of which speaks for itself.

114. The allegations in Paragraph 114 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 114.

115. The allegations in Paragraph 115 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 115.

116. The allegations in Paragraph 116 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 116.

117. The allegations in Paragraph 117 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 117.

118. The allegations in Paragraph 118 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 118.

119. The allegations in Paragraph 119 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 119.

120. The allegations in Paragraph 120 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 120.

121. The allegations in Paragraph 121 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 121.

122. The allegations in Paragraph 122 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 122.

123. The allegations in Paragraph 123 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 123.

124. The allegations in Paragraph 124 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 124.

125. The allegations in Paragraph 125 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 125.

126. The allegations in Paragraph 126 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 126.

127. The allegations in Paragraph 127 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 127.

128. The allegations in Paragraph 128 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 128.

129. The allegations in Paragraph 129 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 129.

130. The allegations in Paragraph 130 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 130.

131. The allegations in Paragraph 131 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 131.

132. The allegations in Paragraph 132 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 132.

133. The allegations in Paragraph 133 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 133.

134. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 134, and on that basis neither admits nor denies them. To the extent that a response is required, the allegations in Paragraph 134 are legal conclusions to which no response is required, and to the extent a response is required, Defendant denies the allegations in Paragraph 134.

135. The allegations in Paragraph 135 are not directed at Defendant, and therefore no response is required. To the extent that a response is required, Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 135, and on that basis neither admits nor denies them.

136. The allegations in the first and last sentence of Paragraph 136 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in the first and last sentence of Paragraph 136. Defendant respectfully refers the Court to the text of the underlying source referenced in the second sentence of this Paragraph, the complete version of which speaks for itself.

137. The allegations in Paragraph 137 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 137.

138. The allegations in Paragraph 138 are legal conclusions to which no response is required. To the extent a response is required, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 138, and on that basis neither admits nor denies them.

139. The allegations in Paragraph 139 are legal conclusions to which no response is required. To the extent a response is required, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations in Paragraph 139, and on that basis neither admits nor denies them.

140. The allegations in Paragraph 140 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 140.

141. The allegations in Paragraph 141 are legal conclusions to which no response is required. To the extent a response is required, Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 141, and on that basis

neither admits nor denies them. Defendant states that the complete version of the underlying source referenced in this Paragraph speaks for itself.

142. The allegations in Paragraph 142 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 142.

143. Defendant admits the allegations in Paragraph 143.

CLASS ACTION ALLEGATIONS

144. Defendant admits that Plaintiffs purport to bring this action as a class action and define certain classes and subclasses but deny that this case may properly proceed as a class action, and otherwise deny the allegations in Paragraph 144.

145. The allegations in Paragraph 145 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 145.

146. The allegations in Paragraph 146 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 146.

147. The allegations in Paragraph 147 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 147.

148. The allegations in Paragraph 148 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 148.

149. The allegations in Paragraph 149 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 149.

150. The allegations in Paragraph 150 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 150 and denies that Plaintiffs' claims are typical.

151. The allegations in Paragraph 151 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 151.

152. The allegations in Paragraph 152 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 152.

153. The allegations in Paragraph 153 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 153 and denies that class treatment is superior.

154. The allegations in Paragraph 154 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 154 and denies that class treatment is appropriate.

CAUSES OF ACTION

155. Defendant incorporates its responses and denials to the foregoing allegations in response to Paragraph 155.

156. Defendant admits that certain Plaintiffs purport to bring this claim individually and on behalf of a California Subclass but denies that Plaintiffs or any class member(s) is entitled to relief, denies that this action is properly maintained as a class action, and otherwise denies the allegations in Paragraph 156.

157. The allegations in Paragraph 157 are not directed at Defendant, and therefore no response is required. To the extent that a response is required, Defendant states that the complete version of the text of the underlying source referenced in this Paragraph speaks for itself.

158. The allegations in Paragraph 158 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 158.

159. The allegations in Paragraph 159 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 159.

160. The allegations in Paragraph 160 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 160.

161. The allegations in Paragraph 161 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 161.

162. The allegations in Paragraph 162 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 162.

163. The allegations in Paragraph 163 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 163.

164. The allegations in Paragraph 164 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 164.

165. The allegations in Paragraph 165 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 165.

166. The allegations in Paragraph 166 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 166.

167. Defendant admits that Plaintiffs seek certain relief, including an injunction. Defendant denies that Plaintiffs are entitled to this relief, and otherwise denies the allegations in Paragraph 167.

168. The allegations in Paragraph 168 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 168.

169. Defendant admits that Plaintiffs seek certain relief, including restitution. Defendant denies that Plaintiffs are entitled to this relief. Moreover, the allegations in Paragraph 169 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 169.

170. Defendant admits that Plaintiffs seek certain relief, including restitution. Defendant denies that Plaintiffs are entitled to this relief. Defendant denies the remaining allegations in Paragraph 170.

171. Defendant incorporates its responses and denials to the foregoing allegations in response to Paragraph 171.

172. Defendant admits that certain Plaintiffs purport to bring this claim individually and on behalf of a California Subclass but denies that Plaintiffs or any class member(s) is entitled to relief, denies that this action is properly maintained as a class action, and otherwise denies the allegations in Paragraph 172.

173. The allegations in Paragraph 173 are not directed at Defendant, and therefore no response is required. To the extent that a response is required, Defendant states that the complete version of the underlying source referenced in this Paragraph speaks for itself.

174. The allegations in Paragraph 174 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 174.

175. The allegations in Paragraph 175 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 175.

176. The allegations in Paragraph 176 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 176.

177. The allegations in Paragraph 177 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 177.

178. The allegations in Paragraph 178 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 178.

179. Defendant admits that Plaintiffs seek certain relief, including restitution. Defendant denies that Plaintiffs are entitled to this relief. Moreover, the allegations in Paragraph 179 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 179.

180. Defendant denies the allegations in Paragraph 180.

181. Defendant incorporates its responses and denials to the foregoing allegations in response to Paragraph 181.

182. Defendant admits that certain Plaintiffs purport to bring this claim individually and on behalf of a California Subclass but denies that Plaintiffs or any class member(s) is entitled to relief, denies that this action is properly maintained as a class action, and otherwise denies the allegations in Paragraph 182.

183. The allegations in Paragraph 183 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 183.

184. The allegations in Paragraph 184 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 184.

185. The allegations in Paragraph 185 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 185.

186. The allegations in Paragraph 186 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 186.

187. The allegations in Paragraph 187 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 187.

188. The allegations in Paragraph 188 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 188.

189. The allegations in Paragraph 189 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 189.

190. The allegations in Paragraph 190 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 190.

191. The allegations in Paragraph 191 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 191.

192. The allegations in Paragraph 192 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 192.

193. The allegations in Paragraph 193 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 193.

194. Defendant incorporates its responses and denials to the foregoing allegations in response to Paragraph 194.

195. Defendant admits that certain Plaintiffs purport to bring this claim individually and on behalf of a California Subclass but denies that Plaintiffs or any class member(s) is entitled to relief, denies that this action is properly maintained as a class action, and otherwise denies the allegations in Paragraph 195.

196. The allegations in Paragraph 196 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 196.

197. The allegations in Paragraph 197 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 197.

198. The allegations in Paragraph 198 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 198.

199. The allegations in Paragraph 199 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 199.

200. The allegations in Paragraph 200 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 200.

201. The allegations in Paragraph 201 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 201.

202. The allegations in Paragraph 202 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 202.

203. The allegations in Paragraph 203 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 203.

204. The allegations in Paragraph 204 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 204.

205. The allegations in Paragraph 205 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 205.

206. The allegations in Paragraph 206 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 206.

207. Defendant admits that Plaintiffs seek certain relief, including actual damages. Defendant denies that Plaintiffs are entitled to this relief. Moreover, the allegations in Paragraph 207 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 207.

208. Defendant incorporates its responses and denials to the foregoing allegations in response to Paragraph 208.

209. Defendant admits that certain Plaintiffs purport to bring this claim individually and on behalf of a class but denies that Plaintiffs or any class member(s) is entitled to relief, denies that this action is properly maintained as a class action, and otherwise denies the allegations in Paragraph 209.

210. The allegations in Paragraph 210 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 210.

211. The allegations in Paragraph 211 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 211.

212. The allegations in Paragraph 212 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 212.

213. The allegations in Paragraph 213 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 213.

214. The allegations in Paragraph 214 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 214.

215. The allegations in Paragraph 215 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 215.

216. Defendant admits that Plaintiffs seek certain relief, including actual damages, injunctive and declaratory relief. Defendant denies that Plaintiffs are entitled to this relief. Moreover, the allegations in Paragraph 216 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 216.

217. Defendant incorporates its responses and denials to the foregoing allegations in response to Paragraph 217.

218. Defendant admits that certain Plaintiffs purport to bring this claim individually and on behalf of an Illinois sub-class but denies that Plaintiffs or any class member(s) is entitled to relief, denies that this action is properly maintained as a class action, and otherwise denies the allegations in Paragraph 218.

219. The allegations in Paragraph 219 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 219.

220. The allegations in Paragraph 220 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 220.

221. The allegations in Paragraph 221 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 221.

222. The allegations in Paragraph 222 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 222.

223. The allegations in Paragraph 223 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 223.

224. The allegations in Paragraph 224 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 224.

225. The allegations in Paragraph 225 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 225.

226. The allegations in Paragraph 226 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 226.

227. The allegations in Paragraph 227 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 227.

228. The allegations in Paragraph 228 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 228.

229. The allegations in Paragraph 229 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 229.

230. The allegations in Paragraph 230 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 230.

231. Defendant incorporates its responses and denials to the foregoing allegations in response to Paragraph 231.

232. Defendant admits that certain Plaintiffs purport to bring this claim individually and on behalf of a New York sub-class but denies that Plaintiffs or any class member(s) is entitled to relief, denies that this action is properly maintained as a class action, and otherwise denies the allegations in Paragraph 232.

233. The allegations in Paragraph 233 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 233.

234. The allegations in Paragraph 234 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 234.

235. The allegations in Paragraph 235 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 235.

236. The allegations in Paragraph 236 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 236.

237. The allegations in Paragraph 237 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 237.

238. The allegations in Paragraph 238 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 238.

239. The allegations in Paragraph 239 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 239.

240. The allegations in Paragraph 240 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 240.

241. The allegations in Paragraph 241 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 241.

242. Defendant incorporates its responses and denials to the foregoing allegations in response to Paragraph 242.

243. Defendant admits that certain Plaintiffs purport to bring this claim individually and on behalf of a New York sub-class but denies that Plaintiffs or any class member(s) is entitled to relief, denies that this action is properly maintained as a class action, and otherwise denies the allegations in Paragraph 243.

244. The allegations in Paragraph 244 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 244.

245. The allegations in Paragraph 245 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 245.

246. The allegations in Paragraph 246 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 246.

247. The allegations in Paragraph 247 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 247.

248. The allegations in Paragraph 248 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 248.

249. The allegations in Paragraph 249 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 249.

250. The allegations in Paragraph 250 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 250.

251. The allegations in Paragraph 251 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 251.

252. The allegations in Paragraph 252 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 252.

253. Defendant incorporates its responses and denials to the foregoing allegations in response to Paragraph 253.

254. Defendant admits that certain Plaintiffs purport to bring this claim individually and on behalf of an Alabama sub-class but denies that Plaintiffs or any class member(s) is entitled to relief, denies that this action is properly maintained as a class action, and otherwise denies the allegations in Paragraph 254.

255. The allegations in Paragraph 255 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 255.

256. The allegations in Paragraph 256 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 256.

257. The allegations in Paragraph 257 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 257.

258. The allegations in Paragraph 258 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 258.

259. Defendant admits that Plaintiffs seek certain relief, including actual damages, injunctive and declaratory relief. Defendant denies that Plaintiffs are entitled to this relief. Moreover, the allegations in Paragraph 259 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 259.

260. Defendant incorporates its responses and denials to the foregoing allegations in response to Paragraph 260.

261. Defendant admits that certain Plaintiffs purport to bring this claim individually and on behalf of a Florida sub-class but denies that Plaintiffs or any class member(s) is entitled to relief, denies that this action is properly maintained as a class action, and otherwise denies the allegations in Paragraph 261.

262. The allegations in Paragraph 262 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 262.

263. The allegations in Paragraph 263 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 263.

264. The allegations in Paragraph 264 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 264.

265. The allegations in Paragraph 265 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 265.

266. The allegations in Paragraph 266 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 266.

267. The allegations in Paragraph 267 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 267.

268. The allegations in Paragraph 268 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 268.

269. The allegations in Paragraph 269 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 269.

270. The allegations in Paragraph 270 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 270.

271. The allegations in Paragraph 271 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 271.

272. The allegations in Paragraph 272 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 272.

273. The allegations in Paragraph 273 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 273.

274. Defendant incorporates its responses and denials to the foregoing allegations in response to Paragraph 274.

275. Defendant admits that certain Plaintiffs purport to bring this claim individually and on behalf of a Nevada sub-class but denies that Plaintiffs or any class member(s) is entitled to relief, denies that this action is properly maintained as a class action, and otherwise denies the allegations in Paragraph 275.

276. The allegations in Paragraph 276 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 276.

277. The allegations in Paragraph 277 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 277.

278. The allegations in Paragraph 278 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 278.

279. The allegations in Paragraph 279 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 279.

280. The allegations in Paragraph 280 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 280.

281. The allegations in Paragraph 281 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 281.

282. The allegations in Paragraph 282 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 282.

283. The allegations in Paragraph 283 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 283.

284. The allegations in Paragraph 284 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 284.

285. The allegations in Paragraph 285 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 285.

286. The allegations in Paragraph 286 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 286.

287. The allegations in Paragraph 287 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 287.

288. The allegations in Paragraph 288 are legal conclusions to which no response is required. To the extent a response is required, Defendant denies the allegations in Paragraph 288.

PRAYER FOR RELIEF

Defendant denies that Plaintiffs and/or putative class members are entitled to any relief or entry of judgment in favor of any of the claims. Defendant further denies that this action can proceed as a class action.

DEFENDANT'S AFFIRMATIVE DEFENSES

Without assuming any burden of proof not imposed by law, Defendant asserts the following legal defenses. The inclusion of a defense in this paper or its designation as an “affirmative defense” does not, and should not be construed to, assume any burden not allocated by law to Defendant.

FIRST DEFENSE **(Failure to State a Claim)**

The Consolidated Complaint should be dismissed, in whole or in part, because it fails to state a cause of action upon which relief may be granted and/or fails to allege sufficient facts necessary to state a claim.

SECOND DEFENSE **(Safe Harbor)**

Plaintiffs’ claims are barred because Defendant has substantially complied with all applicable federal, state, or local statutes, regulations, constitutional provisions, common laws, or public policies and has caused no damage or injury to Plaintiffs.

THIRD DEFENSE **(Lack of Standing)**

Plaintiffs lack Article III standing to sue for any relief and cannot allege or show any imminent and irreparable injury.

FOURTH DEFENSE **(Laches)**

Plaintiffs’ claims are barred, in whole or in part, by the doctrine of laches.

FIFTH DEFENSE
(Speculative or Uncertain Damages)

Plaintiffs fail to and cannot prove money damages with any degree of certainty sufficient to permit recovery of damages.

SIXTH DEFENSE
(Waiver)

Plaintiffs' claims, and those of the classes Plaintiffs purport to represent, are barred, in whole or in part, by the doctrine of waiver.

SEVENTH DEFENSE
(Failure to Mitigate Damages)

Plaintiffs and/or members of the asserted putative classes failed to mitigate the alleged damages, and to the extent of such failure to mitigate, any damages awarded to Plaintiffs and/or members of the asserted putative classes should be reduced accordingly. Defendant alleges that, among other things, Plaintiffs and members of the asserted putative classes failed to mitigate any damages by continuing to purchase the Products, and by taking or failing to take other conduct.

EIGHTH AFFIRMATIVE DEFENSE
(Preemption)

Defendants allege as an affirmative defense that the claims asserted in the Consolidated Class Action Complaint are preempted, either expressly or impliedly, by federal law.

NINTH AFFIRMATIVE DEFENSE
(First Amendment)

Defendants allege as an affirmative defense that the claims asserted in the Consolidated Class Action Complaint are barred by the First Amendment to the United States Constitution.

RESERVATION OF ADDITIONAL DEFENSES

Defendant reserves the right to raise any additional defenses, affirmative or otherwise, and any counterclaims which may become apparent through the course of this action.

JURY DEMAND

Defendant demands a trial by jury on all issues so triable.

Dated: October 4, 2024

Respectfully submitted,

/s/ Dale J. Giali

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CERTIFICATE OF SERVICE

I hereby certify that on October 4, 2024, the foregoing document was served upon all counsel of record via the Court's electronic filing system.

/s/ Dale J. Giali